

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FILED/ACCEPTED
NOV - 1 2007
Federal Communications Commission
Office of the Secretary

In the Matter of)	
)	
2006 Quadrennial Regulatory Review – Review of the)	MB Docket No. 06-121
Commission’s Broadcast Ownership Rules and Other Rules)	
Adopted Pursuant to Section 202 of the Telecommunications)	
Act of 1996)	
)	
2002 Biennial Regulatory Review – Review of the)	MB Docket No. 02-277
Commission’s Broadcast Ownership Rules and Other Rules)	
Adopted Pursuant to Section 202 of the Telecommunications)	
Act of 1996)	
)	
Cross-Ownership of Broadcast Stations and Newspapers)	MM Docket No. 01-235
)	
Rules and Policies Concerning Multiple Ownership of Radio)	MM Docket No. 01-317
Radio Broadcast Stations in Local Markets)	
)	
Definition of Radio Markets)	MM Docket No. 00-244
)	
Ways to Further Section 257 Mandate and To Build on)	MB Docket No. 04-228
Earlier Studies)	

To the Commission

**REPLY COMMENTS OF AFRICAN AMERICAN BROADCASTERS IN
RESPONSE TO THE SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

The African American Broadcasters identified below respectfully support the Commission’s initiative in taking up the proposals of the Diversity and Competition Supporters (MMTC *et al.*) and the Advisory Committee on Diversity for Communications in the Digital Age.¹

¹ See 2006 Quadrennial Regulatory Review – Review of the Commission’s Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996, MB Docket No. 06-121 *et al.* (Second Further Notice of Proposed Rulemaking), 22 FCC Rcd 14216 (2007) (“Second FNPRM”). We appreciate that the Commission will accept reply comments in response to the Second FNPRM through November 1, 2007. See Order, DA 07-4107 (released October 12, 2007) at 3 n. 13.

Minority ownership promotes competition and diversity of viewpoints.² The market entry barriers that inhibit increased minority ownership and growth are numerous and powerful. The Commission must take a consistent and coordinated approach to fully appreciate and effectively address the primary barriers that cause minority exclusion: access to spectrum, access to capital and access to opportunity. We encourage the Commission to review the *Second FNPRM*'s proposals thoroughly, and develop a comprehensive package of minority ownership initiatives that would be effective and that would appeal to all stakeholders. We offer the following initiatives as first steps the Commission can take to remove the impediments to increased minority ownership:

- Proposal #1: Equal Transactional Opportunity: Barring Discrimination On The Basis Of Race Or Gender In Broadcast Transactions. Requiring a seller to certify that it did not discriminate on the basis of race and gender in the sale is a simple and straightforward way for the Commission to express its core value that discrimination has no place in the media industry. Such a rule would go a long way in reducing a seller's invidious race or gender stereotypes or outright prejudice in deciding among qualified buyers.
- Proposal #8: Nonattribution Of EDP Interests In SDBs. The EDP Rule has too severely restricted a vital form of small business financing -- seller paper. This proposal promotes the increased availability of seller paper for small broadcasters without materially conflicting with the purpose of the EDP Rule.
- Proposal #10: Zero Tolerance For Ownership Rule Abuse. The Commission must be willing to police its ownership rules. For starters, the Commission should announce the same "zero tolerance" policy for ownership fraud that it applies to employment discrimination. Ownership fraud is pervasive, taking the form of strange and complex ownership structures designed to mask the identity of those who truly control media voices. The Commission should enact clear standards and make use of the wide variety of tools at its disposal, including proactive investigations, evidentiary hearings and strict penalties for violations, to put an end to ownership fraud.
- Proposal #24: Advocacy Of Tax Deferral Legislation Designed, To The Extent Possible, To Foster Minority Ownership. The tax certificate policy was by far the most effective method of increasing minority ownership. Under this policy, minority broadcast ownership grew tremendously from 1978 through 1995. The tax policy has always enjoyed broad support, but a strong endorsement from the Commission could play a significant role in Congressional restoration of the policy.
- Proposal #25: Examination Of How To Promote Minority Ownership As An Integral Part Of All FCC General Media Rulemaking Proceedings. The Commission must have an awareness of the impact of its policymaking on minority entrepreneurship. By soliciting comments on how proposed rules could favorably or adversely impact minority entrepreneurship, the Commission will develop a full record and will decrease the likelihood that its rules will have the unintended effect of burdening minority groups.

² See Initial Comments of Diversity and Competition Supporters, MB Docket 02-277 (Filed January 2, 2003) ("DCS 2003 Comments"), pp. 61-65, 67-71.

- Proposal #26: Ongoing Longitudinal Research On Minority And Women Ownership Trends. The Commission began collecting minority and women ownership data in 1998, yet, nearly ten years later, the Commission's ownership database is deficient and the information is stale. The Commission can combat this result by conducting the census on an annual basis, as opposed to a bi-annual basis. Further, the census should be expanded to include a targeted questionnaire that will provide the Commission with real-time feedback on the impact of its rules on minority's and women's access to capital, spectrum and opportunity.

These and other proposals set out in the *Second FNPRM* deserve the Commission's attention and expedited consideration. The paucity of minority and women ownership is deep and it has gone unaddressed for many years. We applaud the Commission's apparent intention to take action and stand ready to assist the agency as it considers and implements initiatives to promote diversity in broadcast ownership.

Respectfully submitted,

The undersigned African American Broadcasters

November 1, 2007

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